

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
SAMSUNG FIRE & MARINE INSURANCE
COMPANY, LTD,

Civil Action No.:
1:20-cv-04809-MKV-JLC

Plaintiff,

-against-

LIBERTY MUTUAL FIRE INSURANCE
COMPANY,

Defendant.

-----x
**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

M A D A M S / S I R S :

PLEASE TAKE NOTICE, that upon the annexed the Declaration in
Support of Motion for Summary Judgment of Michael Kirby, dated May 4, 2021, the
Declaration in Support of Motion for Summary Judgment of Marshall T. Potashner, dated
May 5, 2021, the exhibits annexed thereto, the accompanying memorandum of law, the
Statement of Undisputed Facts Pursuant to Fed. R. Civ. P. 56 (c) and Local Rule 56.1,
dated and filed on March 23, 2021 (Document 27-1), the Combined Response to
Statement of Undisputed Facts Pursuant to Fed. R. Civ. P. 56(c) and Local Rule 56.1,
dated and filed on March 30, 2021 (Document 29-1), defendant LIBERTY MUTUAL
FIRE INSURANCE COMPANY will move this Court, at a date and time to be
determined, before the Honorable Mary Kay Vyskocil, U.S.D.J., at the United States
Courthouse, 500 Pearl Street, New York, NY 10007, for an Order, pursuant to Fed. R.
Civ. P. 56, granting summary judgment in favor of defendant LIBERTY MUTUAL FIRE
INSURANCE COMPANY and against plaintiff SAMSUNG FIRE & MARINE

INSURANCE COMPANY, LTD as follows: (1) determining and declaring that Liberty Mutual Fire Insurance Company had no duty to defend or indemnify the defendants for the action entitled Joseph C. Darretta v. Ralph & Flatlands Associates, LLC, Telco of Ralph Avenue, Inc., T&E Stores, Inc., Ralph Avenue Operating Corp., Flatlands Shopping Center Associates, Index No. 513977/2016, which was commenced in the Supreme Court of the State of New York, County of Kings; (2) otherwise dismissing the Declaratory Judgment Complaint; and (3) granting Liberty Mutual Fire Insurance Company the costs and disbursements of this action, together with such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order dated April 6, 2021 of the Honorable May Kay Vyskocil, U.S.D.J., any opposition to this motion must be served and filed by June 3, 2021.

Dated: White Plains, New York
May 5, 2021

Yours, etc.,

JAFFE & ASHER LLP

By:


Marshall T. Potashner, Esq.

Florence Langer, Esq.

Attorneys for Defendant
LIBERTY MUTUAL FIRE INSURANCE
COMPANY
445 Hamilton Avenue, Suite 405
White Plains, New York 10601
(212) 687-3000

TO: L'Abbate, Balkin, Colavita & Contini, L.L.P.
Attorneys for Plaintiff
SAMSUNG FIRE & MARINE INSURANCE COMPANY, LTD
1001 Franklin Avenue
Garden City, NY 11530
(516) 294-8202